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CLEARINGHOUSE RULE 99-158

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

It is not clear that there is statutory authority for s. Tax 20.18 (2) or s. Tax 20.14 (1) (c) and (d). Section Tax 20.18 (2) provides that the Department of Revenue shall issue a check to a taxpayer who did not receive a lottery or gaming credit on his or her property tax bill but who is eligible for a lottery and gaming credit and applies for the credit after January 31. Section Tax 20.14 (1) (c) provides that an owner of property that is eligible for the lottery and gaming credit may apply to the department for the credit after January 31. In addition, s. Tax 20.14 (1) (d) 1. provides that if a property that has been transferred to a new owner qualifies for the credit because the previous owner used the property as his or her primary residence, the new owner of the property may apply for the credit for the 1999-2000 credit with the Department of Revenue.

Section 79.10 (10), Stats., establishes the procedure for claiming the lottery and gaming credit. This subsection provides that a lottery and gaming credit may be claimed in the following two ways:

- a. By completing an application and filing it with the treasurer of the county in which the property is located (or with the treasurer of the City of Milwaukee if the property is located in the City of Milwaukee).
- b. If the property is eligible for the credit but the credit is not reflected on the property tax bill, the credit may be applied for by January 31 following the issuance of the person's property tax bill with the taxation district treasurer.

Neither of these statutory procedures for claiming the lottery and gaming credit authorizes a person to claim the credit after January 31 following the issuance of the person's property tax bill. In addition, neither of these two statutory procedures for claiming the lottery and gaming credit authorize credit applications to be filed with the Department of Revenue. The department should explain the statutory authority for ss. Tax 20.18 and 20.14 (1) (c) and (d).

2. Form, Style and Placement in Administrative Code

- a. Subchapter II (title) of ch. Tax 20 should be repealed rather than renumbered ch. Tax 20 (title). There already is a ch. Tax 20 (title); this title can be amended.
- b. In the text of the rule, the full prefix for the rule should precede the affected language. For example, in SECTION 3, "Tax 20.11" should be inserted before "(1)."
- c. In s. Tax 20.15 (1) (e), a space is needed between "gaming" and "credit."
- d. In s. Tax 20.15 (4) (c) 1. a., "roll" should replace "role."
- e. Section Tax 20.16 (1) (a) should be renumbered s. Tax 20.16 (1). Because s. Tax 20.16 (1) (b) is repealed, having just a par. (a) in s. Tax 20.16 (1) is improper. [See s. 1.03 (intro.), Manual.]
- f. In SECTION 29, "(intro.)" should be inserted after "(2)" in the treatment clause and in the text.

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In s. Tax 20.14 (1) (d) 1., slash marks should not be used and the phrases "the 1999/2000 credit" and "the 2000/01 lottery and gaming credit" should be clarified.
- b. It is suggested that something similar to the phrase "of a county or municipality using the claims procedure" be placed after the word "treasurer" in s. Tax 20.16 (2) (a) 1. This comment is also applicable to s. Tax 20.16 (2) (a) 2. and 3. and (b) 1., 2. and 3.